

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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ADAM LIEBERMAN,

Plaintiff,

v.

BARCLAYS BANK PLC,

Defendant.

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Civil Action No. 18-2339 (MAS) (LHG)

**MEMORANDUM ORDER**

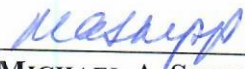
**SHIPP, District Judge**

This matter comes before the Court on Defendant Barclays Bank PLC's ("Defendant") motion to dismiss the Complaint. (ECF No. 9.) Plaintiff Adam Lieberman ("Plaintiff") filed opposition (ECF No. 11) and Defendant replied (ECF No. 14). Plaintiff filed the Complaint in this matter on February 20, 2018. (ECF No. 1.) On March 16, 2018, the United States Court of Appeals for the District of Columbia Circuit issued its decision in *ACA International v. Federal Communications Commission*, 885 F.3d 687 (D.C. Cir. 2018), which set aside certain Federal Communications Commission's ("FCC") guidance regarding the FCC's effort to clarify the types of calling equipment that fall within the Telephone Consumer Protection Act's restrictions and the FCC's approach to calls made to a phone number previously assigned to a person who provided consent, but thereafter, assigned the phone number to another non-consenting party. *ACA Int'l*, 885 F.3d at 692. Defendant filed the instant motion to dismiss on April 19, 2018. After the motion was fully briefed, the parties electronically filed multiple additional submissions, including seven notices of supplemental authority enclosing supplemental arguments and case law references (ECF Nos. 15, 17, 18, 19, 20, 21, 22) and one item of

correspondence from Defendant in response to Plaintiff's first notice (ECF No. 16). The case law brought to the Court's attention includes an opinion issued by the United States Court of Appeals for the Third Circuit and another court in the District of New Jersey. (ECF Nos. 19, 22.) In light of the intervening developments in the law since the Complaint was filed, based on the Court's inherent power to control the matters on its docket, in the interests of justice, and for other good cause shown,

**IT IS** on this 29<sup>th</sup> day of August 2018, **ORDERED** that:

1. Defendant's motion to dismiss (ECF No. 9) is granted without prejudice.
2. Plaintiff may file an Amended Complaint by **September 28, 2018**. If Plaintiff fails to file an Amended Complaint by such deadline, the Complaint will be dismissed with prejudice.

  
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**MICHAEL A. SHIPP**  
**UNITED STATES DISTRICT JUDGE**